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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,977	07/05/2005	Owen Keith Hutchison	653.0021USU	4238
27623 7590 11/30/2007 OHLANDT, GREELEY, RUGGIERO & PERLE, LLP ONE LANDMARK SQUARE, 10TH FLOOR STAMFORD, CT 06901			EXAMINER BONCK, RODNEY H	
			ART UNIT 3681	PAPER NUMBER
			MAIL DATE 11/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,977

Applicant(s)

HUTCHISON, OWEN KEITH

Examiner

Rodney H. Bonck

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 101-116 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 101-106, 108-110 and 114-116 is/are rejected.
- 7) ☒ Claim(s) 107 and 111-113 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following action is in response to the amendment received October 22, 2007.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 101-103, 106, 108-110 and 114 are rejected under 35 U.S.C. 102(b) as being anticipated by Lampert et al.(WO 00/50295 A1). The Lampert et al. device is a dual function handlebar mounted actuator including means 74 for operating a brake function and means 60 for operating a clutch function. A single hand operated lever 16 is arranged to activate at least one of the brake function operating means and clutch function operating means. Brake function operating means and clutch function operating means are linked by activation member 20 so that a combined brake and clutch function can be activated. Movement of lever 16 in a first direction activates the clutch and further movement in the first direction activates the brake. Deceleration would inherently provide an indication to the user that the brake function is initiated. Lever 16 and activation member 20 can be considered first and second portions of a single lever. There is nothing in Lampert et al. that would preclude an additional

actuator such as a foot operated control. Thus, the clutch and brake functions may also be activated by a foot operated control.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 104 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampert et al.(WO 00/50295 A1). The Lampert et al. device provides an adjustment screw 72 and knurled wheel adjustment at the end of Bowden cable sheath 62. It would have been obvious to adjust the activation member, e.g., to compensate for wear.

Claims 104, 105 and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holland('442) in view of Lampert et al.(WO 00/50295 A1). Holland discloses a lever B that can be pivoted in one direction to activate the brake and can be moved in a second direction to cam activation member 96 such that combined clutch and brake operation is performed. The point at which combined operation are linked can be adjusted in use by choosing the point at which the lever is moved in the second direction. Lampert et al. teaches providing a dual function handlebar mounted actuator for operating a clutch and a brake. It would have been obvious in view of Lampert et al.

to adapt the Holland device for handlebar mounting to permit hand operation of the clutch and brake.

Claim 114 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampert et al.(WO 00/50295 A1) in view of Hayashi('954). As noted above, there is nothing in Lampert et al. that would preclude an additional actuator such as a foot operated control. Thus, the clutch and brake functions may also be activated by a foot operated control. Hayashi further teaches providing both foot and hand operated controls. It would have been obvious to provide an additional foot operated control in Lampert et al. such that the user would have the option of using the most convenient control during use.

Claim 115 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lampert et al.(WO 00/50295 A1) in view of Valentin('533). It appears that in Lampert et al. actuation of the clutch control lever beyond initiation of clutch function would require additional force by the user. Valentin teaches providing a power assist such that, after initial operation, control effort by the user is reduced. It would have been obvious to provide such an assist in Lampert et al., the motivation being to reduce the effort required for clutch operation.

Claims 101-105 and 108-110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bent('573) in view of Lampert et al.(WO 00/50295 A1). Bent

discloses a dual function actuator having a single lever that is moved in one direction to actuate a first operation and in a second direction to actuate a second operation. The lever can also be operated to actuate both operations. Adjustability is provided by screws 90. Bent does not specify what is actuated or that the device is mounted on a handlebar. The Lampert et al. device is a dual function handlebar mounted actuator including means 74 for operating a brake function and means 60 for operating a clutch function. It would have been obvious to adapt the Bent device for handlebar mounting since use of the known device of Bent in the Lampert et al. environment would have yielded predictable results to one having ordinary skill in the art at the time of the invention. Lugs 69 in Bent can be considered to provide the claimed cam arrangement. Deceleration would inherently provide an indication to the user that the brake function is initiated.

Claim 114 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bent('573) in view of Lampert et al.(WO 00/50295 A1) as applied to claim 101 above, and further in view of Hayashi('954). There is nothing in Bent/Lampert et al. combination that would preclude an additional actuator such as a foot operated control. Thus, the clutch and brake functions may also be activated by a foot operated control. Hayashi further teaches providing both foot and hand operated controls. It would have been obvious to provide an additional foot operated control in the device taught by Bent and Lampert et al. such that the user would have the option of using the most convenient control during use.

Claim 115 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bent('573) in view of Lampert et al.(WO 00/50295 A1) as applied to claim 101 above, and further in view of Valentin('533). It appears that in the device taught by Bent and Lampert et al., actuation of the clutch control lever beyond initiation of clutch function would require additional force by the user. Valentin teaches providing a power assist such that, after initial operation, control effort by the user is reduced. It would have been obvious to provide such an assist in the device taught by Bent and Lampert et al., the motivation being to reduce the effort required for clutch operation.

Allowable Subject Matter

Claims 107 and 111-113 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant argues that the claims require a single hand lever and that the Lampert et al device has two levers. The claims require that a single lever separately actuates one of the brake or clutch functions. In Lampert et al., a single lever 16 actuates the clutch.

Applicant maintains that the filing date should be February 1, 2005, not July 5, 2005. As noted on the Notice of Acceptance of Application under 35 USC 371 and 37

CFR 1.495", the "filing date" on the filing receipt is the date on which the last of the 35 USC 371 (c)(1), (c)(2) and (c)(4) requirements has been received in the office. That date is July 5, 2005.

Since claims 1-100 have been cancelled, all rejections of those claims are withdrawn.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

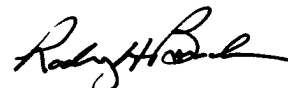
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571)

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272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rodney H. Bonck
Primary Examiner
Art Unit 3681

rhb
November 28, 2007